



HIGHLIGHTS
BALLAST WATER MANAGEMENT SECTIONS OF
H.R. 2830
"Coast Guard Authorization Act of 2008"

Who the Bill Applies to:

The various provisions of the bill apply to vessels of the following kinds that discharge ballast water in the waters of the United States:

any U.S.-flag vessel, no matter where it operates, or
a foreign-flag vessel en route to a U.S. port, or
a foreign-flag vessel departing from a U.S. port

The Coast Guard has the option of developing a separate program for small vessels (less than 50 meters in length)

The existing U.S. Laker fleet is exempted from ballast water exchange and ballast water treatment requirements, but do have to comply with ballast water record keeping and reporting requirements.

While the bill does not directly exempt Canadian Lakers, it allows the Coast Guard to conduct a rulemaking to determine if the Canadian Laker trade poses a threat of introducing invasive species. If the rulemaking determines that such vessels do not pose a threat, then the Coast Guard may exempt them from the ballast exchange and treatment requirements of the bill.

Ballast operations:

The uptake and discharge of ballast water by such vessels is prohibited except as provided in the bill. A number of safety exemptions are provided.

Ballast Water Management Plan:

The bill requires vessels operators to maintain a ballast water management plan, establishes ballasting reporting requirements and directs the Coast Guard to develop regulations governing such.

Ballast Water Exchange Requirements:

In the near term (before vessels are required to treat ballast water), the bill establishes a regime of ballast water exchange - similar to current law. The following are exempted:

vessels trading within the "Great Lakes ecosystem"
vessels trading between the various Hawaiian Islands
vessels trading in any other area designated by the Coast Guard if transfer of aquatic nuisance species is unlikely

NOBOB Vessels:

The bill codifies the salt-water flushing requirements recently implemented administratively by the St. Lawrence Seaway Development Corporation.

Ballast Water Treatment Requirements:

The bill requires vessels to treat their ballast water.

The bill defines a ballast water quality/treatment standard. The water quality standard is 100 times stronger than the international standard (as agreed to in the 2004 IMO ballast water treaty). The standard would effectively require sterilization of ballast water - cleaner than tap water in the average American home.

The bill sets a schedule of deadlines for ballast water treatment system installation:

At the ship's first dry docking after January 1, 2009, a treatment system that meets the IMO standard must be installed.

At the ship's first dry docking after January 1, 2012 - but no later than January 1, 2014 - a treatment system that meets the new U.S. standard (as defined in the bill) must be installed.

Any installed treatment system is "grandfathered" for 10 years.

Treatment System Approval:

Vessel operators may only install "approved" ballast water treatment systems. The Coast Guard is directed to establish a process for approving ballast water treatment systems.

Best Available Technology Review:

By January 1, 2010, the Coast Guard has to determine if treatment technologies exist to meet the water quality standard defined in the bill.

Implementation Adjustment:

If such technologies do not exist, the Coast Guard is to require vessel operators to install the "best available technology." Further, the Coast Guard may extend the deadline for installation by up to 24 months.

Infectious Disease

At the request of the Secretary of Agriculture, the Coast Guard may require any exempted vessel (including U.S. Lakers) to install ballast water treatment systems in order to prevent the spread of infectious diseases in plants and fish.

Sediment Control

The Coast Guard must develop and issue ship design standards to: 1) minimize the accumulation of sediment in ballast tanks, and 2) remove sediment from ballast tanks.

New vessels constructed after 2008 must comply with the design standards. Existing vessels will be required to be modified "to the extent practicable" to minimize the update of sediment.

Compliance Enforcement:

The Coast Guard is to conduct annual inspections of vessels to ensure that they are in compliance with the require-

ments of the bill. If a vessel is inspected and determined to be in compliance, the Coast Guard will issue the operator a compliance certificate good for 5 years.

If a vessel is not in compliance, the Coast Guard is authorized to issue fines, sanctions, criminal penalties or detain the vessel.

Delegation of Enforcement:

Upon request, the Coast Guard may delegate the enforcement of compliance to a state government. The Coast Guard must ensure that the state has put in place the appropriate legal authority, budgetary resources and expertise to adequately enforce compliance.

Pre-Emption:

The bill clarifies that if enacted, it will be the sole federal statute governing the regulation of ships' ballast water (ie: the U.S. Clean Water Act will not govern ballast discharges).

Generally, the bill pre-empts any state law that is inconsistent.

State laws that existed as of January 1, 2007 (ie: Michigan and California) will not be pre-empted until January 1, 2012.